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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,345	04/12/2004	Tom Bogeskov-Jensen	ACU-9210	4741

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STALLMAN & POLLOCK LLP  
SUITE 2200  
353 SACRAMENTO STREET  
SAN FRANCISCO, CA 94111

EXAMINER

ENSEY, BRIAN

ART UNIT PAPER NUMBER

2643

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/823,345	<b>Applicant(s)</b> BOGESKOV-JENSEN ET AL.	
	<b>Examiner</b> Brian Ensey	<b>Art Unit</b> 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/12/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4 and 7 rejected under 35 U.S.C. 102(b) as being anticipated by Hahn et al. U.S. Patent No. 6,230,029.

Regarding claim 1, Hahn discloses a headset (10) comprising: a support member (12) for attachment to an ear of a user; a speaker transducer (24) that outputs sound in response to a sound signal; and a deformable clip (38) connected to the transducer and configured to permit attachment of the transducer to the support member (See Figs. 1 and 2 and col. 5, lines 16-41).

Regarding claim 3, Hahn further said support member is substantially planar (See Fig. 1D).

Regarding claim 4, Hahn further discloses said support member is formed from a flexible material (See Fig. 1A and col. 4, lines 15-25).

Regarding claim 7, Hahn discloses a headset comprising: a substantially planar support member (12) for attachment to an ear of a user; and a body (14) including a speaker transducer (24) that outputs sound in response to a sound signal and a microphone (18) transducer that outputs a speech signal in response to sound, said body further including a deformable clip (38), said body being connected to the support member by said clip (See Figs. 1 and 2 and col. 5, lines

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16-41).

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn.

Regarding claim 2, Hahn discloses a headset as claimed in claim 1. Hahn does not expressly disclose a clip is formed with a U-shaped section located between a pair of opposed legs and wherein the support member is clamped between said opposed legs. However, Hahn teaches a socket for clamping the plug of the support member to the transducer assembly. It would have been obvious to one of ordinary skill in the art at the time of the invention that the socket contains opposed leg members to clamp the support member for attachment and provide electrical connection to the plug of the support member.

Claims 5, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn as applied to claims 1 and 7 above and in further view of Braund U.S. Patent No. 6,373,942.

Regarding claims 5 and 8, Hahn discloses a flexible, curved, planar support member for mounting the headset to the ear of the user. Hahn does not expressly disclose said support member includes curved slot to allow the support member to be hung from the ear of the user.

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However, the use of curved slot support members are well known in the art and Braund teaches a support member includes curved slot to allow the support member to be hung from the ear of the user (See Fig. 3 and col. 44-56). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a curved slot for a comfortable secure attachment of the headset of Hahn to the ear of the user.

Regarding claim 6, Hahn further discloses a microphone transducer that outputs a speech signal in response to sound (See Figs. 1 and 2 and col. 5, lines 16-41). Hahn does not expressly disclose said microphone transducer being connected to said clip. However, Hahn does teach a microphone transducer mounted in a boom and attached to the support member. Further, Braund teaches a clip for attaching a microphone transducer to the support member for attachment to the ear of the user (See Fig 8). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a clip as an alternative means to attach the microphone transducer to the support member.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Ensey whose telephone number is 571-272-7496. The examiner can normally be reached on Monday - Friday 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

**Any response to this action should be mailed to:**

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Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

(703) 872-9306, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".

Hand-delivered responses should be brought to: Customer Service Window, Randolph Building, 401 Dulany Street, Arlington, VA 22314

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BKE  
May 05, 2005

  
CURTIS KUNTZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600